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LAW OFFICE OF BRUCE D. RUBENSTEIN
405 WALTHAM STREET, #404
LEXINGTON, MA 02421

EXAMINER	
MAIS, MARK A	

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2616	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/608,588	POLYAKOV, EVGENY	
	Examiner	Art Unit	
	Mark A. Mais	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *the Amendment filed on January 25, 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,5-10 and 12-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1,3,5-10 and 12-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/25/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) was filed on January 25, 2007. The submission is in compliance with the provisions of 37 C.F.R. 1.97. According, the examiner considered the IDS.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-10, 17, and 19-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker et al. (USP 6,266,700).

4. With regard to claims 1, 20, 21 and 22, Baker et al. discloses a method of *testing equipment operatively connected to a medium* having a protocol comprising:

providing, a plurality of communication element types hierarchically representing different communication elements for the respective protocol **[the user-defined hierarchical data structure is interpreted as the programmably configurable protocol descriptions which allow changes to existing protocols and supports new protocols to be added, col. 2, lines 53-59; any possible organization of fields for any possible protocol, col. 7, lines 17-20; defining the overall structure of the network protocol and reference other information (e.g., other protocols) relative to that network protocol, col. 7, lines 24-27]**;

providing an electronic instrument for operatively connecting to the equipment over the target medium and operating under control of a software program **[the logic control module (interpreted as an electronic instrument in hardware, under control of software, connected to the target medium—Fig. 1, col. 2, lines 45-47; col. 4, lines 29-32; col. 6, lines 2-4; col. 6, lines 45-50) can perform a plurality of functions such as data manipulation, e.g., parsing, filtering, and analysis, col. 2, lines 50; logic control module 16 supports the configuration/reconfiguration of the programmably configurable protocol descriptions to handle different transmission hardware, protocols, and suites (in order to transmit or receive data over that different transmission hardware, protocol, or suite), col. 2, lines 59-67]**;

instantiating, by the software program, at least one of the plurality of communication element types to create a transmit message instance; instantiating, by the software program, at least one of the plurality of communication element types to create an expect message instance; directing, by the software program, the electronic instrument to transmit a message to the equipment according to the transmit message instance and to receive a message from the equipment according to the expect message instance; and comparing the message received from the equipment with expected results to determine whether the expected results were obtained; **[this is interpreted by the examiner as the test functions defined in Figs. 11-16; for example, in order to validate a value, a first message must be sent (transmit message), and then the received result (expect message) is compared to the desired result to determine if the value is valid or invalid (e.g., col. 16, line 53 to col. 17, line 10); thus, one can generate traffic with the ability to specify the methods for varying individual field values, col. 4, lines 44-49;** ***See also*** **specific instances of communications using the system: Fig. 11, running PARSEFRAME 100, running PARSEFIELDS 130/132, Fig. 12, running PARSEPROTOCOL 150, and Fig. 13A running PARSEFIELDS 200]**

wherein, each communication element type *is* a *user-defined* data structure that pertains to a particular layer of the protocol **[user-defined is interpreted as the data structure which can be configured or reconfigured to handle numerous data manipulation functions (e.g., protocols), col. 2, lines 59-67]**; *and*

wherein at least some communication element types relating to higher layers of the protocol include references to one or more communication element types relating to lower layers of the protocol **[this is inherent in a system (software controlled) that parses frames and breaks them up into individual protocols and fields necessary for filtering, gathering statistics, generating network traffic, routing data, verifying field values (col. 2, lines 1-5) (generating multiple instances—claim 21); for example, this is interpreted as the system (1) receiving and determining the next protocol description structure to be used (table 4, lookup structure record, col. 8, lines 35-53) (processing multiple instances—claim 22) (reference to the message type—claim 20), then (2) finding the fields that describe the protocol header (table 1, protocol control record, col. 7, lines 24-46) (reference to the word type—claim 20), and then (3) computing the protocol checksum (table 6, checksum record, col. 9, lines 10-20 (reference to the field type—claim 20); this process is described in flowchart format: Fig. 11, PARSEFRAME 100, GET CURRENTPROTOCOL 102, then PARSEFIELDS 132, then Fig. 13A, PARSEFIELDS 200, then Fig. 13B, VERIFY CHECKSUM 235]**.

5. With regard to claim 25, Baker et al. discloses communicating over a target medium having a protocol **[the logic control module can perform a plurality of functions such as data manipulation, e.g., parsing, filtering, and analysis, col. 2, lines 50; logic control module 16 supports the configuration/reconfiguration of the programmably configurable protocol descriptions to handle different transmission hardware, protocols, and suites (in order to transmit or receive data over that different transmission hardware, protocol, or suite), col. 2, lines 59-67]**, comprising:

providing a plurality of communication element types for representing different communication elements of the protocol **[the user-defined hierarchical data structure is interpreted as the programmably configurable protocol descriptions which allow changes to existing protocols and supports new protocols to be added, col. 2, lines 53-59; any possible organization of fields for any possible protocol, col. 7, lines 17-20; defining the overall structure of the network protocol and reference other information (e.g., other protocols) relative to that network protocol, col. 7, lines 24-27]**, each of the plurality of communication element types being a *user-defined* data structure that pertains to a particular layer of the protocol **[user-defined is interpreted as the data structure which can be configured or reconfigured to handle numerous data manipulation functions (e.g., protocols), col. 2, lines 59-67]**;

providing an electronic instrument for operatively connecting to the target medium for communicating over the target medium; providing a software program for controlling the electronic instrument **[the logic control module (interpreted as an electronic instrument in hardware, under control of software, connected to the target medium—Fig. 1, col. 2, lines 45-47; col. 4, lines 29-32; col. 6, lines 2-4; col. 6, lines 45-50) can perform a plurality of functions such as data manipulation, e.g., parsing, filtering, and analysis, col. 2, lines 50; logic control module 16 supports the configuration/reconfiguration of the programmably configurable protocol descriptions to handle different transmission hardware, protocols, and suites (in order to transmit or receive data over that different transmission hardware, protocol, or suite), col. 2, lines 59-67]**;

arranging the plurality of communication element types hierarchically **[the user-defined hierarchical data structure is interpreted as the programmably configurable protocol descriptions which allow changes to existing protocols and supports new protocols to be added, col. 2, lines 53-59; any possible organization of fields for any possible protocol, col. 7, lines 17-20; defining the overall structure of the network protocol and reference other information (e.g., other protocols) relative to that network protocol, col. 7, lines 24-27]**, *with at least one communication element type relating to a higher layer of the protocol including a reference to at least one communication element type relating to a lower layer of the protocol* **[this is inherent in a system (software controlled) that parses frames and breaks them up into individual protocols and fields necessary for filtering, gathering statistics, generating network traffic, routing data, verifying field values (col. 2, lines 1-5) (generating multiple instances); for example, this is interpreted as the system (1) receiving and determining the next protocol description structure to be used (table 4, lookup structure record, col. 8, lines 35-53) (processing multiple instances) (reference to the message type), then (2) finding the fields that describe the protocol header (table 1, protocol control record, col. 7, lines 24-46) (reference to the word type), and then (3) computing the protocol checksum (table 6, checksum record, col. 9, lines 10-20 (reference to the field type); see also this process is described in flowchart format: Fig. 11, PARSEFRAME 100, GET CURRENTPROTOCOL 102, then PARSEFIELDS 132, then Fig. 13A, PARSEFIELDS 200, then Fig. 13B, VERIFY CHECKSUM 235]**,

instantiating at least one of the plurality of communication element types by *the* software program *to create at least one communication element instance;* and *operating the software program to control the electronic instrument to* direct communications *over the target medium*, responsive to *each* communication element *instance* **[this is interpreted by the examiner as the test functions defined in Figs. 11-16; for example, in order to validate a value, a first message must be sent (transmit message), and then the received result (expect message) is compared to the desired result to determine if the value is valid or invalid (e.g., col. 16, line 53 to col. 17, line 10) ; thus, one can generate traffic with the ability to specify the methods for varying individual field values, col. 4, lines 44-49; specific instances of communications using the system: Fig. 11, running PARSEFRAME 100, running PARSEFIELDS 130/132, Fig. 12, running PARSEPROTOCOL 150, and Fig. 13A running PARSEFIELDS 200]**.

6. With regard to claim 26, Baker et al. discloses communicating over a target medium having a protocol **[the logic control module can perform a plurality of functions such as data manipulation, e.g., parsing, filtering, and analysis, col. 2, lines 50; logic control module 16 supports the configuration/reconfiguration of the programmably configurable protocol descriptions to handle different transmission hardware, protocols, and suites (in order to transmit or receive data over that different transmission hardware, protocol, or suite), col. 2, lines 59-67]**, comprising:

providing a plurality of message types and word types for representing communications using the protocol **[this is inherent in a system (software controlled) that parses frames and breaks them up into individual protocols and fields necessary for filtering, gathering statistics, generating network traffic, routing data, verifying field values (col. 2, lines 1-5) (generating multiple instances); for example, this is interpreted as the system (1) receiving and determining the next protocol description structure to be used (table 4, lookup structure record, col. 8, lines 35-53) (processing multiple instances) (reference to the message type), then (2) finding the fields that describe the protocol header (table 1, protocol control record, col. 7, lines 24-46) (reference to the word type), and then (3) computing the protocol checksum (table 6, checksum record, col. 9, lines 10-20 (reference to the field type); see also this process is described in flowchart format: Fig. 11, PARSEFRAME 100, GET CURRENTPROTOCOL 102, then PARSEFIELDS 132, then Fig. 13A, PARSEFIELDS 200, then Fig. 13B, VERIFY CHECKSUM 235]**, each of the plurality of message types and word types being a user-definable data structure **[user-defined is interpreted as the data structure which can be configured or reconfigured to handle numerous data manipulation functions (e.g., protocols), col. 2, lines 59-67]**;

providing an electronic instrument for operatively connecting to the target medium for communicating over the target medium; providing a software program for controlling the electronic instrument **[the logic control module (interpreted as an electronic instrument in hardware, under control of software, connected to the target medium—Fig. 1, col. 2, lines 45-47; col. 4, lines 29-32; col. 6, lines 2-4; col. 6, lines 45-50) can perform a plurality of functions such as data manipulation, e.g., parsing, filtering, and analysis, col. 2, lines 50; logic control module 16 supports the configuration/reconfiguration of the programmably configurable protocol descriptions to handle different transmission hardware, protocols, and suites (in order to transmit or receive data over that different transmission hardware, protocol, or suite), col. 2, lines 59-67]**;

arranging the plurality of message types and word types hierarchically **[the user-defined hierarchical data structure is interpreted as the programmably configurable protocol descriptions which allow changes to existing protocols and supports new protocols to be added, col. 2, lines 53-59; any possible organization of fields for any possible protocol, col. 7, lines 17-20; defining the overall structure of the network protocol and reference other information (e.g., other protocols) relative to that network protocol, col. 7, lines 24-27]**,

with at least one message type including a reference to at least one word type **[this is inherent in a system (software controlled) that parses frames and breaks them up into individual protocols and fields necessary for filtering, gathering statistics, generating network traffic, routing data, verifying field values (col. 2, lines 1-5) (generating multiple instances); for example, this is interpreted as the system (1) receiving and determining the next protocol description structure to be used (table 4, lookup structure record, col. 8, lines 35-53) (processing multiple instances) (reference to the message type), then (2) finding the fields that describe the protocol header (table 1, protocol control record, col. 7, lines 24-46) (reference to the word type), and then (3) computing the protocol checksum (table 6, checksum record, col. 9, lines 10-20 (reference to the field type); see also this process is described in flowchart format: Fig. 11, PARSEFRAME 100, GET CURRENTPROTOCOL 102, then PARSEFIELDS 132, then Fig. 13A, PARSEFIELDS 200, then Fig. 13B, VERIFY CHECKSUM 235]**;

instantiating the at least one message type by a software program *to create at least one message instance;* and *operating the software program to control the electronic instrument to* direct communications *over the target medium*, responsive to the message *instance* **[this is interpreted by the examiner as the test functions defined in Figs. 11-16; for example, in order to validate a value, a first message must be sent (transmit message), and then the received result (expect message) is compared to the desired result to determine if the value is valid or invalid (e.g., col. 16, line 53 to col. 17, line 10) ; thus, one can generate traffic with the ability to specify the methods for varying individual field values, col. 4, lines 44-49; specific instances of communications using the system: Fig. 11, running PARSEFRAME 100, running PARSEFIELDS 130/132, Fig. 12, running PARSEPROTOCOL 150, and Fig. 13A running PARSEFIELDS 200]**.

7. With regard to claim 2, Baker et al. discloses creating, by one of the software programs, instances of one or more communication element types for exchanging data on the respective target medium **[can be configured and reconfigured to implement data manipulation functions and accommodate substantial network (bus) modification, col. 2, lines 59-67]**.

8. With regard to claim 3, Baker et al. discloses wherein the step of providing comprises defining one or more of the plurality of communication element types responsive to exchanges allowed by the protocol of the respective target medium **[it is inherent that the communication element types would be defined; *See also* one or more programmable configurable program descriptions, col. 2, lines 50-52]**.

9. With regard to claim 4, Baker et al. discloses creating, by one of the software programs, an instance of at least one of the plurality of communication element types **[the system can perform data manipulation, i.e., the logic control module can perform data manipulation, e.g., parsing, filtering, and analysis, col. 2, lines 50]**; and

processing each said instance for exchanging information on the respective target medium **[logic module 16 processes the program description files and extracts field values or filtered values, col. 6, lines 15-19]**.

10. With regard to claim 5, Baker et al. discloses that at least one of the communication element types defines a structure for transmitting data over the target medium **[logic control module 16 supports the configuration/reconfiguration of the programmably configurable protocol descriptions to handle different transmission hardware, protocols, and suites (in order to transmit data over that different transmission hardware, protocol, or suite), col. 2, lines 59-67]**.

11. With regard to claim 6, Baker et al. discloses that at least one of the communication element types defines a structure for receiving data over the target medium **[logic control module 16 supports the configuration/reconfiguration of the programmably configurable protocol descriptions to handle different transmission hardware, protocols, and suites (in order to receive data over that different transmission hardware, protocol, or suite), col. 2, lines 59-67]**.

12. With regard to claim 7, Baker et al. discloses that at least one communication element type is a message type that includes a portion for holding message data associated with instances of the respective message type **[a data file 20 includes a protocol record organized into a plurality of predefined fields, col. 6, lines 64 to col. 7, lines 1; and can be organized to be used with any possible protocol, col. 7, lines 17-20]**.

13. With regard to claim 8, Baker et al. discloses that the message data has a fixed length **[e.g., for example, a particular protocol header length may be fixed, col. 7, lines 3-7]**.

14. With regard to claim 9, Baker et al. discloses that the message data has a variable length **[a data file 20 includes a protocol record organized into a plurality of predefined fields, col. 6, lines 64 to col. 7, lines 1; and can be organized to be used with any possible protocol, col. 7, lines 17-20]**.

15. With regard to claim 10, Baker et al. discloses that at least one of the communication element type has a fixed portion that is the same for all instances of the communication element type **[e.g., for example, a particular protocol header length may be fixed, col. 7, lines 3-7]**.

16. With regard to claims 17, 23, and 24, Baker et al. discloses **[the logic control module can perform a plurality of functions such as data manipulation, e.g., parsing, filtering, and analysis, col. 2, lines 50; programmably configurable protocol descriptions allows changes to existing protocols and supports new protocols to be added, col. 2, lines 53-59; any possible organization of fields for any possible protocol, col. 7, lines 17-20; (inherently, this is a test program—claim 23)]** a method *further* comprising, *prior to the step of directing* **[creating a programmably configurable general protocol description, col. 5, lines 18-21; interpreted as prior to directing]**:

varying at least one characteristic of the transmit message instance by the software program **[this is interpreted as determining (testing) dynamic/varying individual field values (e.g., using filtering control logic) and generating traffic with the ability to specify the methods for varying individual field values, col. 4, lines 44-49; thus, after entering the criteria to be tested/filtered, the control logic computes the validity, col. 18, lines 1-25; see also filtering criteria can be specified to any subset of bits in any field by allowing the criteria to be applied to every instance of that field which appears more than once in a frame, col. 18, lines 55-60 (testing varied characteristics of the multiple instances—claim 24)]**.

17. With regard to claim 19, Baker et al. discloses **[the logic control module can perform a plurality of functions such as data manipulation, e.g., parsing, filtering, and analysis, col. 2, lines 50; the user-defined data structure is interpreted as the programmably configurable protocol descriptions which allow changes to existing protocols and supports new protocols to be added, col. 2, lines 53-59; any possible organization of fields for any possible protocol, col. 7, lines 17-20]** a method *further* comprising:

saving the plurality of communication element types in a computer readable format **[written and saved in PDF format, col. 10, lines 51-58]**.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

19. Claims 12-16, 18, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. as applied to claims 1-10, 17, and 19-26 above.

20. With regard to claims 12-16 and 18, Baker et al. does not specifically disclose that each instance of the message type includes a portion for prescribing timing. However, Baker et al.

discloses being configured and reconfigured to implement data manipulation functions and accommodate substantial network (bus) modification, **[col. 2, lines 59-67]**. Baker et al. also discloses one or more programmable configurable program descriptions, **[col. 2, lines 50-52]**. Baker et al. discloses a system (logic control module), which can perform data manipulation, e.g., parsing, filtering, and analysis **[col. 2, lines 50]** wherein the logic module 16 processes the program description files and extracts field values or filtered values **[col. 6, lines 15-19]**. Additionally, Baker et al. discloses a logic control module 16 that supports the configuration/reconfiguration of the programmably configurable protocol descriptions to handle different transmission hardware, protocols, and suites (in order to transmit/receive data over that different transmission hardware, protocol, or suite) **[col. 2, lines 59-67]**. It is obvious to those of ordinary skill in the art that messages/words/packets in several protocols include timing characteristics (e.g., leading gaps **[claims 13 and 14]**, trailing gaps **[claim 16]**, and message timeouts **[claim 15]**), which must be specified for correct synchronization and proper extraction of headers and payloads. Moreover, Baker et al. discloses data file 20, which includes a protocol record organized into a plurality of predefined fields **[col. 6, lines 64 to col. 7, lines 1]**, which can be organized to be used with any possible protocol **[col. 7, lines 17-20]**. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included timing characteristics in the programmably configurable message types to handle substantial network (bus) modification as well as different transmission hardware, protocols, and suites because such timing characteristics are necessary for working with different types of technology and protocols which rely on those timing-based characteristics.

21. With regard to claims 27 and 28, Baker et al. discloses accessing an interface and/or using a software driver **[col. 2, lines 59-67]**. Baker et al. does not specifically disclose that the software program accesses a specific interface (API) or software driver (VXI). 28. However, Applicants have not disclosed that selecting a specific interface or a specific software driver solves any stated problem or is for any particular purpose other than an optimization of a known method of interfacing components and/or using a software driver. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the interface and/or software driver of Baker et al. because such modifications are considered a mere design choice consideration, which fails to patentably distinguish over the prior art of Baker et al. In addition, the changing of the interface and/or the software driver is interpreted as an optimum value for a known process. A discovery of an optimum value for a known process is obvious engineering. See In re Aller, 105 USPQ 233 (CCPA 1955).

Response to Arguments

22. Applicant's arguments filed have been fully considered but they are not persuasive.

23. With respect to claim 1, Applicants argue that Baker et al. does not "instantiate" the steps of the disclosed method **[Applicant's Amendment dated January 25, 2007, page 3, paragraphs 3-5]**. The examiner respectfully disagrees.

24. As stated above, the rejection of claim 1 recites the test functions defined in Figs. 11-16. For example, in order to validate a value, a first message must be sent (transmit message), and then the received result (expect message) is compared to the desired result to determine if the value is valid or invalid **[e.g., col. 16, line 53 to col. 17, line 10]**. Thus, one can generate traffic with the ability to specify the methods for varying individual field values **[col. 4, lines 44-49; specific instances of communications using the system: Fig. 11, running PARSEFRAME 100, running PARSEFIELDS 130/132, Fig. 12, running PARSEPROTOCOL 150, and Fig. 13A running PARSEFIELDS 200]**.

25. With respect to claim 1, Applicants argue that the messages transmitted and received are not compared **[Applicant's Amendment dated January 25, 2007, page 3, paragraph 4 to page 4, paragraph 1]**. The examiner respectfully disagrees.

26. As stated above, the rejection of claim 1 recites the test functions defined in Figs. 11-16. For example, in order to validate a value, a first message must be sent (transmit message), and then the received result (expect message) is compared to the desired result to determine if the value is valid or invalid **[e.g., col. 16, line 53 to col. 17, line 10]**. Thus, one can generate traffic with the ability to specify the methods for varying individual field values **[col. 4, lines 44-49; specific instances of communications using the system: Fig. 11, running PARSEFRAME 100, running PARSEFIELDS 130/132, Fig. 12, running PARSEPROTOCOL 150, and Fig. 13A running PARSEFIELDS 200]**.

27. With respect to claim 25, Applicants argue that Baker et al. does not "instantiate" the steps of the disclosed method **[Applicant's Amendment dated January 25, 2007, page 4, paragraphs 3-4]**. The examiner respectfully disagrees.

28. As stated above, the rejection of claim 25 recites the test functions defined in Figs. 11-16. For example, in order to validate a value, a first message must be sent (transmit message), and then the received result (expect message) is compared to the desired result to determine if the value is valid or invalid **[e.g., col. 16, line 53 to col. 17, line 10]**. Thus, one can generate traffic with the ability to specify the methods for varying individual field values **[col. 4, lines 44-49; specific instances of communications using the system: Fig. 11, running PARSEFRAME 100, running PARSEFIELDS 130/132, Fig. 12, running PARSEPROTOCOL 150, and Fig. 13A running PARSEFIELDS 200]**.

29. With respect to claim 26, Applicants argue that Baker et al. fails to distinguish between types and instances **[Applicant's Amendment dated January 25, 2007, page 4, paragraphs 6-7]**. Applicants further argue that Baker et al. does not disclose a software program **[Applicant's Amendment dated January 25, 2007, page 5, paragraph 1]**. The examiner respectfully disagrees.

30. First, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., messages and words which are not "instances") are not recited in the rejected claims. Although the claims are

interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

31. Second, in response to applicant's argument that the method of communicating over a medium which involves message and word types (and, apparently, not message and word "instances"), a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

32. Third, as stated above, the rejection of claim 26 recites **that this is inherent in a system (software controlled) that parses frames and breaks them up into individual protocols and fields necessary for filtering, gathering statistics, generating network traffic, routing data, verifying field values [col. 2, lines 1-5; i.e., generating multiple instances]**. For example, a system which (1) receives and determines the next protocol description structure to be used **[table 4, lookup structure record, col. 8, lines 35-53; i.e., processing multiple instances; reference to the message type]**. Then (2) finds the fields that describe the protocol header **[table 1, protocol control record, col. 7, lines 24-46; reference to the word type]**. Then (3) computes the protocol checksum **[table 6, checksum record, col. 9, lines 10-20; reference to the field type; this process is described in flowchart format: Fig. 11, PARSEFRAME 100, GET CURRENTPROTOCOL 102, then PARSEFIELDS 132, then Fig. 13A, PARSEFIELDS 200, then Fig. 13B, VERIFY CHECKSUM 235]**.

Conclusion

33. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

34. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

35. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Mais whose telephone number is 572-272-3138. The examiner can normally be reached on M-Th 5am-4pm.

36. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

37. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MAM
May 21, 2007

WELLINGTON CHIN
ERVISORY PATENT EXAMINER